LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
http://www.in.gov/legislative

FISCAL IMPACT STATEMENT

LS 7561
BILL NUMBER: SB 506

NOTE PREPARED: Feb 17, 2009
BILL AMENDED: Feb 16, 2009

SUBJECT: Local Government Matters.

FIRST AUTHOR: Sen. Boots
FIRST SPONSOR: Rep. DeLaney

BILL STATUS: As Passed Senate

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

County Executive Specifies Government Structure: The bill provides that in counties other than Marion County and Lake County, the county executive body shall after October 31, 2009, and before November 15, 2009, adopt a resolution specifying that the voters of the county shall:

(1) elect a single county chief executive officer to serve as the county executive and a county council that has the legislative and fiscal powers and duties of the county;
(2) elect a board of county supervisors that is a combined county executive, legislative, and fiscal body that has the executive, legislative, and fiscal powers and duties of the county; or
(3) provide that the voters shall choose, in a public question to be held in 2010, the structure of county government.

Public Question: It provides that if a public question is held in 2010, the voters shall choose one of two options for the structure of county government:

(1) the county shall elect a board of county supervisors that is a combined county executive, legislative, and fiscal body that has the executive, legislative, and fiscal powers and duties of the county; or
(2) the county shall not reorganize county government.

It prohibits a political subdivision from promoting a position on such a public question.

Effective Date of New Government Structure: The bill provides that the government structure chosen by a majority of the voters voting on the public question is effective January 1, 2013. It provides that in counties with a county chief executive officer, the initial county chief executive officer is elected at the November 2012 general election and takes office January 1, 2013. It also provides that in counties with a board of county supervisors that is a combined county executive, legislative, and fiscal body, members are elected at the November 2012 general election (with staggered terms) and the members take office January 1, 2013.

County Chief Executive Officer: The bill provides that in counties with a county chief executive officer, the county councils continue under existing law. It requires an individual employed as county manager to attain Credentialed Manager Status from the International City/County Management Association not later than two years after the date the individual is employed as county manager.

Board of County Supervisors: It provides that after December 31, 2012, a county that has a board of county supervisors elected as the county executive, legislative, and fiscal body must employ a county manager.

Nepotism: The bill prohibits nepotism in the appointment of the county manager and the hiring of employees in the county manager's office.

Future Reorganization of County Government: The bill provides that in every general election after 2012, 5% of the voters of the county may petition the circuit court clerk specifying a public question on reorganizing the county government. It requires the petition to specify one of the following sets of choices for voters:

(1) The county shall have the government structure with a single county chief executive officer and a county council or the county government shall not reorganize.
(2) The county shall have the government structure with the board of county supervisors that is a combined county executive, legislative, and fiscal body or the county government shall not reorganize.

It also provides that in a county that retains a board of county commissioners, the county commissioners may in any general election after 2012 provide that the voters of the county shall vote on the reorganization of county government. The bill provides that the voters choices are:

(1) to not reorganize county government; and
(2) one of the following choices, as determined by the county commissioners:
(A) to have a single county executive and county council; or
(B) to have a county board of supervisors.

Government Modernization Statutes: The bill provides that in a local government reorganization under the government modernization statutes, the reorganization committee is appointed by:

(1) the county executive of the county in which the most populous political subdivision is located, if the county is not named in the petition or resolution; or
(2) the circuit court judge of the county in which the most populous political subdivision is located, if the county is named in the petition or resolution.

It provides that in a public question on reorganization under the government modernization statutes of a municipality and a county that does not contain a consolidated city:

(1) if the reorganization plan includes a rejection threshold, the rejection threshold of the reorganizing municipality and the rejection threshold of the county (excluding the area in the reorganizing municipality) must be equivalent to a simple majority (current law provides that the rejection threshold is the percentage specified in the reorganization plan); and

(2) the percentage of voters who must vote on a countywide basis in favor of the reorganization for the public question to be approved must be equivalent to a simple majority (current law provides that the countywide vote approval percentage is the percentage specified in the reorganization plan).

The bill also specifies that the voters of a political subdivision may not initiate a proposed reorganization under the government modernization statutes that includes any of the following:

(1) A county other than the county in which the political subdivision is located.
(2) A political subdivision located in a different county.

It provides that if a proposed local government reorganization is initiated under the government modernization statutes by the voters of a political subdivision, approval of the legislative bodies of the affected political subdivisions is not required before a proposed reorganization plan may be prepared by a reorganization committee and placed on the ballot for a vote.

It also specifies that the circuit court clerk of the county in which the most populous political subdivision named in a reorganization resolution or petition is located shall appoint to the reorganization committee three residents of each political subdivision participating in the reorganization.

Office of Technical Assistance: The bill requires the Office of Management and Budget to establish an Office of Local Technical Assistance. It requires the Office to:

(1) promote sound fiscal, management, and operational practices in local government and assist units of local government in carrying out these practices; and
(2) coordinate interaction between units of local government and state agencies.

The bill requires the Department of Local Government Finance (DLGF) and the State Board of Accounts to consult with the Office as the DLGF and the State Board of Accounts develop and adopt transition rules to assist units of local government that are consolidating entire units or specific functions.

Advisory Commission on Intergovernmental Relations: The bill requires the Advisory Commission on Intergovernmental Relations to monitor the progress of local governments in implementing the recommendations made by the Commission on Local Government Reform and prepare an annual report of its findings.

It also requires the Indiana Advisory Commission on Intergovernmental Relations to:

(1) create recommended minimum objective professional qualifications and performance standards for elected county officials in Indiana;
(2) create recommended best practices standards for the conduct of county government in Indiana; and
(3) conduct a performance audit of county government in Indiana; and report the recommendations and results to the Office of Management and Budget and the Legislative Council before November 1, 2010.

Deletions and Repeals: It deletes the requirement that a copy of an interlocal cooperation agreement must be filed with the State Board of Accounts. It repeals the requirement that counties and municipalities must prepare and submit to the State Board of Accounts an operational report concerning roads and streets. It also repeals the requirement that the county clerk must prepare a monthly report that is submitted to the county auditor, the county executive, and the State Board of Accounts, and it repeals the requirement that the county treasurer must prepare a monthly report that is submitted to the county auditor, county board of finance, county executive, and State Board of Accounts.

Effective Date: Upon passage; July 1, 2009.

Explanation of State Expenditures: *Office of Local Technical Assistance:* The cost of the Office will depend on the number of employees and resources needed to provide assistance to local units of government. There are no comparisons to be made within current state agencies, but the costs are expected to be minimal.

The funds and resources required above could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions. [On January 5, 2009, the OMB had two vacant positions with a total salary of about $82,000.]

Advisory Commission on Intergovernmental Relations: The Advisory Commission on Intergovernmental Relations (Commission) will have four responsibilities under the bill, including conducting a performance audit of county government in Indiana. The expenses of these responsibilities are not expected to be within the existing resources of the Commission, which receives about $59,000 annually within the Indiana University appropriation. Previously, the Commission has received an appropriation from the Legislative Council budget to carry out assigned research projects. The bill does not make an appropriation for the assigned responsibilities.

Background: The Commission was established by the General Assembly in 1995. The Indiana University Center for Urban Policy and the Environment provide staff and administrative support for the Commission. Legislative members of the Commission receive per diem, mileage, and travel allowances through the Legislative Council budget, while other members receive traveling expenses and actual costs incurred through the Commission budget.

Explanation of State Revenues: *Chief Executive Officer Offenses:* The bill establishes a Class C misdemeanor for a chief executive officer who recklessly violates duties assigned in statute. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class C misdemeanor is $500. Criminal fines are deposited in the Common School Fund.

Also, the bill establishes a Class C infraction for a chief executive officer paying for public advertising in more than one newspaper, unless required by law. If additional court cases occur and infraction judgments and court fees are collected, revenue to the state General Fund may increase. The maximum judgment for a Class C infraction is $500, which is deposited in the state General Fund.

If court actions are filed and a judgment is entered, a court fee of $70 would be assessed and, for a criminal charge, a $120 court fee would be assessed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee ($2), automated record keeping fee ($7), judicial salaries fee ($18), the public defense administration fee ($3), the court administration fee ($5), and the judicial insurance adjustment fee

($1) are deposited into the state General Fund.

Explanation of Local Expenditures: (Revised) *Reorganization of County Government:* No current county executive, legislative, or fiscal responsibility is reduced or eliminated. However, in counties other than Marion County and Lake County, the duties will be reorganized based on the decisions of the executive body or the majority of voters of a county. The reorganization could change compensation costs. Executive compensation is determined by the county fiscal body, and any additional costs or cost savings will result from the decisions of the fiscal body. Officers are compensated from the county general fund.

County Manager: The bill requires that if a county has a board of county supervisors, the board will employ a county manager as the administrative head of the county government. The board of county supervisors will determine the manager's compensation.

Deletions and Repeals: The reporting and filing requirements deleted or repealed by the bill could provide minimal cost savings to local offices preparing or filing the reports. However, to the extent that the circuit court clerk's and county treasurer's report are monthly closing reports, cost savings may not occur. Additionally, the bill removes a public hearing and decision of the legislative body concerning a reorganization by referendum. There are no data available to indicate if removing this provision would increase the number of reorganizations undertaken.

Background and Additional Details- Chief Executive Officer: The chief executive officer would first begin serving a four-year term on January 1, 2013. The chief executive officer would exercise or perform all executive duties of the county except those assigned to another elected or appointed officer. Any law in referring to the board of commissioners and concerning county executive powers would be a reference to the chief executive officer. However, any authority to impose or levy a tax would be given to the county council as the legislative body. Also, the bill would give any county legislative powers to the county council in a county with a chief executive officer.

Under the bill, the county executive would have specific reporting duties to both the residents of the county and the legislative body, would make recommendations concerning county improvements and actions, and would have approval/veto powers on ordinances passed by the county legislative body. The bill requires the chief executive officer office to be open each business day.

(Revised) *Board of County Supervisors:* In a county, other than Marion County or Lake County, where the county executive body or a majority of voters have determined that the board of county supervisors is the county executive, legislative body, and county fiscal body, the responsibilities and powers of the county council and board of county commissioners transfer to the board of county supervisors. In counties where the county council currently has seven members, the board of county supervisors will have seven members, and, in St. Joseph County, which has nine county council members, the board will have nine members.

(Revised) *County Managers:* The county manager must have attained credentialed manager status or credentialed manager candidate status from the International City/County Management Association. The county manager must execute a bond for faithful performance of the county manager's duties, and the bill prohibits a relative of a member of the board of supervisors to be county manager, with certain exceptions. The county manager attends meetings of the board of county supervisors; hires and supervises county employees; administers and enforces all ordinances, orders, and resolutions of the board; prepares budget estimates; executes contracts on behalf of the county for materials, supplies, services, or improvements; and receives summons on behalf of the county.

Explanation of Local Revenues:

State Agencies Affected: State Board of Accounts; DLGF; Office of Management and Budget; Indiana Advisory Commission on Intergovernmental Relations.

Local Agencies Affected: Counties; Trial courts, local law enforcement agencies.

Information Sources:

Fiscal Analyst: Karen Firestone, 317-234-2106.